

### **REMARKS**

Claim 7 has been rejected by the Examiner under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The Examiner feels that there is no support in the disclosure as originally filed for container walls, a plastic coating layer on the walls, and an outer container shell. This rejection is respectfully traversed.

As the Examiner will note, the expression “outer container shell” has been cancelled claim 7 and replaced with the expression “the plastic coating layer,” which finds antecedent basis both in the specification and in claim 6, from which claim 7 depends. The Examiner also argues that the expression “container walls” does not find support in the original application. However, the non-plastic container body 1 inherently contains container walls as disclosed in the specification of the present application, and accordingly, the use of the expression “container walls” would not appear to raise an issue of new matter in the present application. Also, element 32 in Fig. 5 defines a plastic coating layer which is contiguous with the container walls as shown in Fig. 5 of the present application. Accordingly, the Examiner’s rejection with respect to the Applicant’s terminology is not understood. If, in fact, the Examiner merely wants the Applicant to insert the word “walls” into the specification of the present application, this can readily be accommodated, if necessary.

Claim 7 has been further rejected by the Examiner under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. This rejection is respectfully traversed.

In making this rejection the Examiner specifically requests the Applicant to define the structure relationship between the container walls, the plastic layer and the container outer shell. Since the expression “the container outer shell” has been cancelled from claim 7 of the present application by the present amendment, and replaced with the expression “the plastic coating layer,” it is believed that the structure relationship between the various elements has now been clarified.

Claims 9-12 (apparently the Examiner intended to reject claims 6-12) are rejected under 35 USC 103(a) as being unpatentable over Kitko et al., U.S. Patent 6,649,891 in view of Les Promotions Atlantiques, Inc. (hereinafter LPA) (CA 2,314,537). This rejection is respectfully traversed.

The present invention is directed to a food storage container having a specific construction, whereby a non-plastic container body is provided with a plastic coating layer which contains a closed ring-shaped plastic rim which is adapted to cooperate with a plastic lid for sealing the container body. As shown in Fig. 5 of the present application, a plastic coating layer 32 is made integral with the plastic rim 3 and extends from the plastic rim 3 thereby surrounding the outer surface and lower (bottom) surface of the container body. By constructing the plastic rim to be contiguous with the coating layer 32, the plastic rim 3 becomes much more secure when the plastic lid is secured thereto since the plastic rim is supported by the entirety of the plastic coating layer 32 with which it is integrally formed. Thus, it can be readily understood that if the plastic rim 3 is attached to the upper portion 11 of the opening by itself without the support of the plastic coating layer 32, the plastic rim 3 could be readily separated from the outer surface of the upper portion 11 of the opening due to pressure which is inherently applied when the lid engages the locking protrusions of the closed ring. Thus, by constructing the plastic rim to be contiguous with the coating layer 32, the attachment of the plastic rim to the non-plastic container body 11 is made even more secure and strong and furthermore, the container body is protected from external impact and in addition it is possible to use various colors and shapes for enhancing the outer appearance of the container.

As recited in claim 6 of the present application, the plastic lid is provided with a groove for engaging the container walls at the upper side thereof and further contains locking wings for engaging with the locking protrusions of the closed ring. Thus, the food storage container of the present invention is provided with a double-sealing capacity which utilizes a groove provided in the plastic lid as well as locking wings which lock and clamp the lid to the container body so the application of a clamping and locking pressure against a sealing ring provided in the groove of the plastic lid. As noted on page 2, lines 10-13 of the present application, the locking wings of

the plastic lid operate to pull the lid itself in the direction of the container body, whereby the lid is strongly pulled in the direction of the container body so that the lid is elastically engaged with the container body thereby enhancing the sealing force of the lid in providing a hermetic seal to accommodate the hermetic storage of food in the container.

Kitko is directed to a food container for use in a microwave oven. Figs. 1-5 of the prior art reference show various embodiments whereby the lid 18 is attached to the body of the food container. None of the embodiments shown in Figs. 1-5 of the prior art reference show or even remotely suggest a container provided with a double-sealing system whereby the lid of the container is double sealed to the body of the container. Thus, each of the embodiments of Figs. 2-5 show a single sealing of the lid to the container, clearly indicating that the prior art reference does not contemplate the type of hermetic sealing as defined by the present invention. Furthermore, it can be appreciated that even the type of sealing shown in Fig. 2 of Kitko cannot provide the type of sealing security as achieved as defined by the present invention wherein wing members containing an aperture are hinged for providing a tight, locking engagement with the locking protrusions of the closed ring.

The Examiner, recognizing that Kitko is silent regarding the specifics of the claimed ring and the lid locking arrangement, has further relied upon the LPA reference to show a container and lid which allegedly describes the locking arrangement set forth in the instant claims. However, similarly as in Kitko, the LPA reference also shows a single type of sealing and locking arrangement of the lid with the container. Thus, there is no appreciation in the LPA reference of providing the plastic lid with a groove for engaging the container walls at the upper side thereof and thus there can be no appreciation of how the locking wings can cooperate with the groove of the plastic lid for providing an enhanced, double-sealing of the lid with the body of the container. Thus, according to the present invention, the locking wings work in combination with the groove provided in the plastic lid for creating a sealing system which is not recognized by either the Kitko or LPA references.

The Examiner argues that it would be obvious to one skilled in the art to apply the teachings of a closed ring-shaped plastic ring surrounding the container opening and provided with locking protrusions extending therefrom and a plastic lid provided with a U-shaped groove containing a sealing ring for engaging the container walls at the upper side thereof and further containing locking wings for engaging with locking protrusions of the closed ring to the container of Kitko as a known alternative container and lid arrangement. Since of the references relied upon by the Examiner even remotely suggest the double-sealing system of the present invention, it is clear that the Examiner, in rejecting the claims of the present application, must reconstruct the teachings of each of the references after looking at the Applicant's inventive contribution. Such hindsight reconstruction frustrates the unobvious contribution made by the Applicant in providing a non-plastic container for storing food which eliminates the problems experienced by the prior art devices, particularly sealing devices which experience a weak sealing result.

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims of the present application are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Joseph A. Kolasch Reg. No. 22,463 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 10/773,304  
Amendment dated January 11, 2008  
Reply to Office Action of October 11, 2007

Docket No.: 1338-0178P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: January 11, 2008

Respectfully submitted,

By 

Joseph A. Kolasch

Registration No.: 22,463

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant